

APPEAL NO. 032350
FILED OCTOBER 13, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 11, 2003. With regard to (Docket No. 1), the hearing officer determined that the appellant/cross-respondent (claimant) sustained a repetitive trauma injury while in the course and scope of her employment; that the date of injury was (date of injury for Docket No. 1); that the claimant did not give timely notice of the injury to her employer and, therefore, the injury is not compensable; and that the claimant did not have disability. With regard to (Docket No. 2), the hearing officer determined that the claimant did not sustain a compensable repetitive trauma injury with a date of injury of (date of injury for Docket No. 2), and that the respondent/cross-appellant did not waive the right to contest compensability of the claimed injury by not timely contesting it in accordance with Section 409.022. The claimant appealed the hearing officer's decision. The carrier conditionally appealed the finding of fact that the claimant sustained a repetitive trauma injury in the course and scope of her employment. Both parties responded to the opposition's appeal.

DECISION

Affirmed.

The disputed issues in this case involved factual questions for the hearing officer to resolve. The hearing officer is the sole judge of the weight and credibility of the evidence (Section 410.165(a)) and it is for the hearing officer to resolve such conflicts and inconsistencies in the evidence as were present in this case (Garza v. Commercial Insurance Co. of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ)). The Appeals Panel will not disturb the challenged factual findings of a hearing officer unless they are so against the great weight and preponderance of the evidence as to be clearly wrong or manifestly unjust and we do not find them to be so in this case. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); In re King's Estate, 150 Tex. 662, 244 S.W.2d 660 (1951). We additionally note that although the claimant asserted that she sustained two separate and distinct injuries with two different dates of injury, the hearing officer found from the evidence that the claimant actually sustained only one injury, that is, carpal tunnel syndrome, and that the carrier timely contested it. We perceive no error in the hearing officer's resolution of the waiver issue.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **LIBERTY INSURANCE CORPORATION** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM
350 NORTH ST. PAUL STREET, SUITE 2900
DALLAS, TEXAS 75201.**

Chris Cowan
Appeals Judge

CONCUR:

Judy L. S. Barnes
Appeals Judge

Elaine M. Chaney
Appeals Judge